

1 **R277. Education, Administration.**

2 **R277-417. Prohibiting LEAs and Third Party Providers from Offering Incentives**
3 **or Reimbursements for Enrollment or Participation.**

4 **R277-417-[2]1. Authority and Purpose.**

5 ~~[A.](1)~~ This rule is authorized ~~[under]~~by:

6 (a) Utah Constitution Article X, Section 3₁ which vests general control and
7 supervision over public education in the Board; and

8 (b) ~~[by]~~Subsection 53A-1-401(3)₁ which allows the Board to adopt rules in
9 accordance with its responsibilities.

10 ~~[B.](2)~~ The purpose of this rule is to provide standards and procedures for
11 prohibiting LEAs and third party providers from offering incentives for student
12 enrollment.

13 **R277-417-[4]2. Definitions.**

14 ~~[A. "Board" means the Utah State Board of Education.]~~

15 ~~[B.](1)~~ "Incentive" means one of the following given to a student or to the
16 student's parent or guardian by an LEA or by a third party provider as a condition
17 of the student's enrollment in an LEA or specific program for any length of time,
18 during any school year:

19 ~~[(1)a)~~ money greater than \$10; or

20 ~~[(2)b)~~ an item of value greater than \$10.

21 ~~[C. "Individualized Education Program (IEP)" means a written statement for~~
22 ~~a student with a disability that is developed, reviewed, and revised in accordance~~
23 ~~with the Utah Special Education Rules and Part B of the Individuals with Disabilities~~
24 ~~Education Act (IDEA).]~~

25 ~~[D. "LEA" or "local education agency" means a school district or charter~~
26 ~~school.]~~

27 (2) "Program" means a program within a school that is designed to
28 accomplish a predetermined curricular objective or set of objectives.

29 ~~[E]([1]3)(a)~~ "Reimbursement" means the payment of money or provision of
30 other item of value greater than \$10 offered as payment or compensation to a
31 student or to a parent or guardian for:

([a])i a student's enrollment in an LEA; or

([b])ii a student's participation in an LEA's program.

([2])b "Reimbursement" does not include a reimbursement paid by an LEA to a student, parent or guardian, for an expenditure incurred by the student, parent or guardian on behalf of the LEA if:

([a])i the expenditure is for an item that will be the property of the LEA; and

([b])ii the expenditure was authorized by the LEA.

[F.](4) "Section 504 accommodation plan" required by Section 504 of the Rehabilitation Act of 1973, means a plan designed to accommodate an individual who has been determined, as a result of an evaluation, to have a physical or mental impairment that substantially limits one or more major life activities.

[G.](5) "Third party provider" means a third party who provides educational services on behalf of an LEA.

R277-417-3. LEA and Third Party Provider Use of Public Funds for Incentives and Reimbursements.

[A.](1) Except as provided in [R277-417-3B]Subsection (3), an LEA or a third party provider may not use public funds, as defined under Subsection 51-7-3(26), to provide the following to a student, parent or guardian, individual, or group of individuals:

([1])a an incentive for a student's:

([a])i enrollment in an LEA; or

([b])ii participation in an LEA's program; or

([2])b a referral bonus for a student's:

([a])i enrollment in an LEA; or

([b])ii participation in an LEA's program.

~~[B. An LEA or third party provider may use public funds to provide an incentive to a student or the student's parent or guardian if the incentive is:~~

~~—— (1) provided to all students enrolled in the LEA; and~~

~~—— (2) part of a school uniform used by the LEA.]~~

[C.](2) Except as provided in [R277-417-3D]Subsection (3), an LEA or third party provider may not use public funds to provide a reimbursement to a student or

63 the student's parent or guardian for:

64 ([1]a) curriculum selected by a parent;

65 ([2]b) instruction not provided by the LEA;

66 ([3]c) private lessons or classes not managed or facilitated by the LEA;

67 ([4]d) technology devices selected by a parent; or

68 ([5]e) other educational expense selected by a parent.

69 (3) An LEA may use public funds to provide:

70 (a) uniforms, technology devices, curriculum, materials and supplies, or

71 instructional services to a student if the uniforms, technology devices, curriculum,

72 materials and supplies, or instructional services are:

73 (i) available to all students enrolled in the LEA or program within the LEA; or

74 (ii) authorized by the student's college and career readiness plan, IEP, or 504

75 accommodation plan; or

76 (b) internet access for instructional purposes to a student:

77 (i) in kindergarten through grade 6; or

78 (ii) in grade 7 through grade 12 if:

79 (A) the internet access is provided in accordance with the fee waiver policy

80 requirements of Section R277-407-6; or

81 (B) failure to provide the internet access will cause economic hardship on the

82 student or parent.

83 ~~[D. An LEA or third party provider may use public funds to provide a~~

84 ~~reimbursement to a student or the student's parent or guardian if:~~

85 ~~—— (1) the reimbursement is required to be paid or provided pursuant to an IEP~~

86 ~~or Section 504 accommodation plan that is approved by the LEA;~~

87 ~~—— (2) for a student in Kindergarten through grade 6, the reimbursement is~~

88 ~~provided to a student's parent or guardian for internet accessibility; or~~

89 ~~—— (3) for a student in grade 7 through grade 12:~~

90 ~~—— (a) the reimbursement is provided to a student or student's parent or guardian~~

91 ~~for internet access in accordance with the fee waiver policy requirements of R277-~~

92 ~~407-6; and~~

93 ~~—— (b) failure to provide the reimbursement described in R277-417-3D(3)(a) will~~

94 ~~cause economic hardship.]~~

[E.](4) An LEA or third party provider shall ensure that ~~[an item]~~equipment purchased~~[, rented,]~~ or leased by the LEA or third party provider remains the property of the LEA and is subject to the LEA's asset policies if:

([1]a) the LEA or third party provider purchases ~~[an item]~~equipment; and

([2]b) provides the ~~[item]~~equipment to a student or to the student's parent or guardian.

[F.](5) An LEA shall establish monitoring procedures to ensure that a third party provider who provides educational services to a student on behalf of the LEA complies with the provisions of ~~[R277-417]~~this rule.

[G.](6) The Board or the Superintendent may require an LEA to repay public funds to the Superintendent if:

([1]a) an LEA or an LEA's third party provider fails to comply with the provisions of this ~~[R277-417]~~rule; and

([2]b) the repayment is made in accordance with the procedures established in Rule R277-114.

KEY: student, enrollment, incentives

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Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3)